IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Government Appeal No. 62 of 2006

State of Uttaranchal. **…..Appellant.**

Versus

Dhanesh Chandra Dabral,
S/o Mahanand ,
R/o Village Udairampur, Kotdwar,
At present Lecturer Janta Inter College,
Nahsain,
District – Pauri Garhwal. **…Respondent.**

Coram:
Hon'ble M.M. Ghildiyal, J
Hon'ble B.C. Kandpal, J
Judgement per **(Hon'ble B.C. Kandpal, J)**

Heard learned AGA for the appellant and perused the judgment and order dated 06.08.2005 passed by learned Sessions Judge, Pauri Garhwal in Sessions Trail No. 104 of 2002 under section 302/34 IPC.

Learned Trail Court after assessment of evidence on record acquitted the accused / respondent – Dinesh Chandra Dabral for offence under section 302 IPC but convicted the respondent for offence under section 304 A IPC and sentenced him one year RI and fine of Rs. 5,000/-.

From the perusal of the judgment passed by Trail Court it reveals that the prosecution could not establish the charge under section 302 IPC against the accused / respondent. Evidence adduced by the prosecution has established this fact that it was a case of accident and death was caused due to accident. Trial Court accordingly convicted the respondent / accused under section 304 A IPC and sentenced him accordingly.

We are of the opinion that the evidence adduced by the prosecution has rightly been assessed by the Trial Court. We do not find any infirmity in the impugned judgement and order dated 06.08.2005 passed by learned Sessions Judge, Pauri Garhwal in Sessions Trail No. 104 of 2002.

Appeal lacks of merit, as such, is dismissed *in limine.* Impugned judgement and order dated 06.08.2005 passed by learned Sessions Judge, Pauri Garhwal in Sessions Trail No. 104 of 2002 is hereby confirmed.

(B.C. Kandpal, J) **(M.M. Ghildiyal, J)**

November 14, 2006
SKSharma